

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

There are no changes to the initial statement of reasons, which is hereby incorporated by reference, with the exception of the following:

Form Layout

Subparagraph (a) explains the form layout. The purpose of the layout design is to provide a consistent reference point for relevant information, allowing employees of the department, ~~law enforcement, and the courts~~ to quickly review the card for necessary information. By having all insurance companies follow the same layout, the card can be easily recognized as valid evidence of financial responsibility regardless of the issuer, in much the same way all California Vehicle Registration Cards look alike, despite containing different information.

The initial statement of reasons should not have referred to law enforcement and the courts. The confusion caused by this statement was brought to the department's attention by the written comments received.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Section 82.00 in Article 2.3, Chapter 1, Division 1, of Title 13, California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other nondiscretionary cost or savings to local agencies, and (4) no costs or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on August 9, 2002, and made available to the public from August 9, 2002 through September 23, 2002. The following comments were received on the regulatory proposal:

WRITTEN COMMENTS:

Farmers Insurance Group of Companies, dated September 23, 2002

Farmers Insurance expressed concerns regarding the production of the form and its potentially negative impact on their operation in terms of costs and lost production time. Data was provided to support this supposition. They additionally had concerns regarding the requirements for bar codes.

Department's Response:

Vehicle Code Section 4000.37 (a) (3) (A) and (A) (i) states as follows:

(3) (A) The director may authorize an insurer to issue a form that does not conform to paragraph (1) or (2) if the director does all of the following:

(i) Determines that the entity issuing the alternate form is or will begin reporting the insurance information required under paragraph (1) or (2) to the department through electronic transmission.

Farmers Insurance has been an electronic insurance filer since 2001. They are, therefore, exempt from the requirements of this regulation. They will not be required to adjust any of the current documentation mailed to their customers.

Additionally, the requirement for the form applies only to the proof form sent to the department. The insurance cards being sent to customers are not affected by this regulation.

Personal Insurance Federation of California, October 1, 2002, submitted at the Public Hearing

The Personal Insurance Federation of California had four specific concerns regarding the amendment to the regulations:

1. The size of the card is too big. The belief was expressed that the regulation would have an adverse effect on all insurers. Concerns regarding the increased size, paper weight, and mailing cost were also expressed. A suggestion regarding the use of the ACORD 50 was also presented in this statement along with the need for justification of the statement by the department that it has “taken efforts to minimize the cost” of this regulation.

Department's Response:

The required form is to be sent to the department as proof of insurance. It is unnecessary for an insured to send this information to the department if the insurance company is filing information with the department electronically. This regulation does not affect the cards the insured carries as proof of insurance for law enforcement personnel. If the information were submitted electronically, the company would save the funds required for mailing the document.

The department does not believe that the required paper weight is substantially different from the weight that is currently used by insurance companies. This paper is slightly heavier than regular bond paper so that it will not easily tear during processing. The 8.5 x 3.5 size will leave sufficient room on a standard sheet of paper for the companies to continue printing their customary proof of insurance cards for their insureds. Additionally, the insured would not be required to carry this document with them. This document would be mailed to the department for processing. Using the ACORD 50 is not a viable alternative to this regulation since it would not work with the department's existing equipment, as would the proposed form.

This is the same form that the department asked to be produced voluntarily in the past. Therefore, some insurers in the state of California are already producing this document. No new technology is necessary to comply with the requirements of this regulation.

Examples of the steps taken to minimize the costs include using a paper weight that is comparable to what is currently used in the industry; the specifications identified can be read by

existing departmental equipment; designing a form that will leave over 7 inches of usable space on a standard 11 inch document to be used to print the insureds' proof of insurance copies; and requiring ONLY the document that is required to be sent to the department to comply with these requirements.

2. The barcode requirements are not clear. They appear to be lenient enough to raise potential fraud concerns. Concern regarding the costs for programming the bar-coded information was also identified.

Department's Response:

The regulation includes a picture of the required form. The requirement for the scannable OCR-A line is also included. The technology to read OCR-A font has been in place for decades. This is not new technology nor is new technology required to produce it. If the font was not included in the insurer's word processing software (which it most probably is), the font can be downloaded from the internet for a nominal fee. In one attempt to search for OCR-A font on the internet, it would have cost only \$66.00 to own it. The OCR-A font is also (and has been) available for most brands of typewriters – IBM Selectric, Brother, Olivetti, etc.

There are currently NO safeguards against fraud on the proof of insurance cards currently received. There will be, as identified in the regulation, an algorithm provided to the insurer that must be included on the form. The specific algorithm is not included in the regulations because it will be used as a fraud prevention tool.

Again, this form would only be required in the event the insurance provider does not file electronically with the department.

3. Contrary to the Fiscal Impact Statement in the proposed regulations, there will be major costs associated with the implementation of the requirements of Section 82.00. The commenter used costs associated with New York's recent implementation of changes as an example of costs for production of the form. There is concern regarding the need for new equipment as well as maintenance of the system required to produce the uniform insurance card. Additionally, because the department stated that there would be no additional cost or saving to any state agency, there was a question as to whether the department already possessed the capability to scan barcodes or intended to actually read the barcodes.

Department's Response:

The department's processing equipment that is currently in place can scan this font. It is the same font that is used on all registration renewal cards and therefore, would not create a new expense for the department. The barcode/OCR information would speed the processing of these documents. It would enable them to be sorted by machine versus by hand.

New York has a very different program that requires bar-coded vehicle information that must match electronic reports filed by the companies...in essence, California offers two alternative programs while New York requires participation in both, with much more stringent requirements in each. New York requires each insurer to use a specific program that must be downloaded from their website for development of the barcodes. California's requirement is for

the use of a font that is readily accessible through independent means. These are only a few of the differences between New York's requirements and California's.

Without any specifics from industry on exactly what other specifications were so costly in New York, it would be impossible to answer more precisely.

California has purposely avoided New York's path, and the programming requirements for its electronic program are viewed favorably by the industry in comparison to most others, including New York's program.

4. Concern was expressed as to whether there is a conflict between Section 4000.37 (a) (3) (A) (i) of the Vehicle Code and Section 4000.37 (b) (4). Language was offered to amend the regulation. The proposed revision is as follows:

Every insurance company licensed to offer private passenger liability policies as described in Section 660 (a) and (b) of the Insurance Code, ~~except as provided in Vehicle Code section 4000.37,~~ shall issue to each policy holder, for each vehicle covered by private passenger liability insurance, a California Evidence of Liability Insurance Document (Reg 890A (Rev. 5/97)). Companies that file the information required in Vehicle Code section 4000.37 electronically shall be exempt from the requirements of this Uniform Insurance Card provision. This exemption extends to the insurance cards provided by said insurers to their policyholders.

Department's Response:

Both of these Vehicle Code sections state that if the insurer files electronically with the department they are exempt from the requirement to comply with the form developed by the department. Any amendments desired or required to the Vehicle Code must be promulgated by the legislature. The department does not have the authority to make any amendment to these sections.

The department believes the language proposed by the Personal Insurance Federation of California is unnecessary as this exemption is already clearly stated in the Vehicle Code.

National Association of Independent Insurers and the Association of California Insurance Companies, submitted at Public Hearing on October 1, 2002

1. The department's authority to require the development of the specified form was questioned. The commenter restated the specific requirements that are in the Vehicle Code and suggested that the department remove subsections (a), (c) (d), (e), and (f) from the proposed regulation.

Department's Response:

Vehicle Code Section 4000.37 gives the department the authority to approve the form that is produced by insurers. This regulation gives the industry the specifications of the form that the department will approve.

Furthermore, if the department were to remove the specifications for the form, there would be no need to have a regulation since the Vehicle Code is specific regarding the insurance information that must be included on the form.

2. The commenter disputes the clarity of the regulation. They believe it is unclear to many insurers whether proposed Section 82.00 is intended to apply to insurance companies that submit insurance information electronically to the DMV. Language included in the Initial Statement of Reasons referred to information provided to law enforcement and courts. NAII and ACIC recommend that proposed regulation be amended to include an express statement that the proposed regulation has absolutely no application to those insurance companies that report insurance information electronically to the DMV.

Department's Response:

Vehicle Code section 4000.37 (a) requires insurers to “submit either a form approved by the department, but issued by the insurer, as specified ... or items specified in paragraph (4), as evidence that the applicant is in compliance with the financial responsibility laws of this state.” Vehicle Code section 4000.37 (b) excludes electronic filers from the scope of the proposed regulation. This section states as follows:

(b) This section does not apply to any of the following:

(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.

(2) A vehicle that is owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.

(3) A vehicle registration renewal application where there is a change of registered owner.

(4) A vehicle for which evidence of liability insurance information has been electronically filed with the department.

Because the Vehicle Code is specific in the exemption for electronic filers, this exemption does not need to be restated in the regulation.

The reference to law enforcement and the courts has been removed from the Initial Statement of Reasons based on this comment. (See page 1 of this document.)

3. The need for the regulation was questioned. It is believed that a substantial percentage of private passenger automobile insurance companies currently participate in the electronic registration data reporting system. The commenters believe the standards are designed to pressure companies into the electronic data program through a complicated and expensive system. They believe this change is similar to the system set up in the state of New York and that the department has failed to look at other alternatives for ID card specifications. An overview of recent discussions between the Insurance Industry Committee on Motor Vehicle Administration and the American Association of Motor Vehicle Administrators was given.

Department's Response:

While electronic filing would be preferable, the specifications for the form were developed so that current departmental resources could be used. The format allows the form to be fed through an

optical character recognition sorter in the same manner as registration cards are read and sorted. This will increase the accuracy and efficiency of the process. Therefore, the form being developed by AAMVA would not necessarily satisfy the needs of this department.

California is not trying to emulate the New York ID card system. New York has a very different program that requires bar-coded vehicle information that must match electronic reports filed by the companies. California offers two alternative programs while New York requires participation in both, with much more stringent requirements in each. New York requires each insurer to use a specific program that must be downloaded from the New York DMV website for development/application of the barcodes. California's requirement is for the use of a font that is readily accessible through a variety of independent means. These are only a few of the differences between New York's requirements and California's.

Additionally, insurers on large and small scales have already produced the requested form voluntarily. Thus, it is an appropriate standard.

4. Comments were presented which provided figures involved with implementing New York's system. Concerns were expressed regarding the post net bar code font required by the regulations, as well as how the data will be laid out on the form. Prior experience with bar coding and the costs associated therewith, including paper requirements, magnetic ink, new servers and mainframes, were discussed. Additional comments regarding the paper and the size of the insurance card were presented. Concerns were also presented regarding the department's determinations regarding the cost impact on businesses.

Department's Response:

This proposal is not intended to mirror the New York system. It is unrealistic to believe that 40,000 programming hours could be required to reformat an existing document.

The post net bar code font is also known as the postal bar code. The sample below was created using Microsoft Word software while typing this document. If this is unavailable to the industry, font packages that include both OCR-A and post net bar code fonts are available over the Internet. Buying a package with a multi-site license costs approximately \$2,500.

The concerns regarding new servers and mainframes appear to be unfounded. This proposed regulation would reformat existing documents.

The regulation does not require the industry to purchase magnetic ink. It does require the paper to be laser compatible. This means that the paper can be used in a laser printer. Laser printers are the normal mode of

printing in most businesses. The cost of the paper should not be substantially different from that currently in use in the industry.

The size of the card is a new requirement. However, the regulation does allow for the card to be a detachable portion of a larger document. This would allow the insurance industry to produce the required document on either the bottom or top of an 8.5 x 11 sheet of paper and produce their current size cards for the insured on the remainder of the sheet. The entire sheet could be sent to the insured with instructions to submit the 3.5 x 8.5 to the department and retain the remainder for presentation to law enforcement and in the vehicle.

Most of the concerns appear to be based on the assumption that California's requirement will be similar to the New York's. This is simply not the case as has been previously explained.

5. NAII and ACIC believe that the proposed regulation is attempting to push insurers to report electronically. Because the department has taken two years to sign up fifteen carriers and has had significant ongoing reporting problems, concerns were raised about the department's ability to absorb the large volume of data in a timely manner. Additional concerns regarding the time allowed for implementation of electronic reporting by companies choosing this option were identified.

Department's Response:

There are currently 15 carriers signed up for electronic reporting. These 15 carriers account for 60% of the insured vehicles in the state of California. Therefore, absorbing the large volume of data is a concern that has been and is being addressed.

Vehicle Code section 4000.37 (a) (3) (A) (i) gives the director the authority to authorize an insurer to issue a form that does not conform to defined specifications if the director "determines that the entity issuing the alternate form is or will begin reporting the insurance information required" to the department through electronic transmission. This exemption is dependent upon the insurer's intentions and is discretionary.

Although new technology may be on the horizon, it often takes years for the technology to reach its intended market. Delaying the implementation of this regulation until proposed technology reaches fruition is unrealistic. The proposed regulation would implement immediate cost savings in terms of time spent reading and routing documents through the department, as well as reducing the amount of misrouted insurance documents. It provides a means for insurers to keep their current formatting of ID cards while increasing the automation of process at the department. Additionally, if the insurers opt to use electronic filing, they should expect to experience cost savings as well, since they would no longer be required to mail a form that would need to be forwarded to the department. The convenience to the customer is also a factor to be considered. Drivers whose insurance information is forwarded via electronic means do not need to mail or present insurance documents to the department, and may be able to register their vehicles on-line versus appearing in a local DMV office or using the mail.

ORAL COMMENTS – Public Hearing, October 1, 2002.

Janine Gibford, National Association of Independent Insurers and the Association of California Insurance Companies.

Ms. Gibford's oral comments echoed the submitted written comments that the department has responded to with the following addition.

Ms. Gibford stated that the department failed to recognize whether private passenger autos insured under a commercial auto policy would be affected by this regulation.

Department's Response:

Vehicle Code Section 4000.37 (a) (1) states "For vehicles covered by private passenger automobile liability policies ...". Therefore, this regulation would not apply to any vehicle insured under a commercial auto policy.

Michael Gunning, Personal Insurance Federation of California

Mr. Gunning represented State Farm, Farmers, Progressive, 21st Century, and SAFECO Insurance companies. He addressed the issues included in the written comments he submitted.

4) Determination of Alternatives

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process no acceptable alternative that would lessen the adverse economic impact on small business was submitted.